IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Prakash Chandra Panwar. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 5481/1993

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Date of Order: February 13, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. D.K. Sharma for Mr. Himanshu Maheshwari, for the petitioner.

Mrs. Vidhyawati Bora, Assistant Govt. Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to consider his case for his absence from duty and pay the pensionary/retiral benefits with interest @ 24% per annum.

I have heard learned counsel for the parties.

The petitioner was initially appointed on the post of Lower Division Clerk in the respondent Education Department in October 1952 and thereafter he joined as Lower Division Clerk in Sumer Public Library, Public Park, Jodhpur. During his service tenure, the petitioner had been posted to various places.

Ultimately, he retired on 31-12-1990 on attaining the age of superannuation.

According to the learned counsel appearing for the petitioner, the petitioner has served the respondents right from the date of his initial appointment in 1952 till December 1990, except for the period during which he remained under mental imbalanced for the period upto 30-7-1980. Learned counsel submits that the case of the petitioner has been considered and decided by the respondents with regard to his absence from duty, may be on account of his mental imbalanced and he has been paid the retiral benefits. The only grievance survives is that the petitioner retired on 31-12-1990 whereas he was paid the pensionary benefits on 17-3-1994 and, therefore, for the aforesaid period, the petitioner claims interest on the delayed payment of retiral benefits.

The respondents, despite several opportunities being afforded, failed to file a reply and the averments made in the writ petition have not been controverted by a reply-affidavit.

Keeping in view that ultimately the claim of the petitioner was accepted by the respondents by paying him the retirement benefits on 17-3-1994 and nothing has been brought on record that for the delay in payment of the retiral benefits, the petitioner was in any way responsible and nothing has been brought on record that the delay was caused due to any inaction

or fault of the petitioner, in these circumstances, in my view, the petitioner is entitled for interest @ 12% per annum upon expiry of sixty days from his retirement with effect from 1-3-1991 till the actual date of payment on 16-3-1994.

In the result, the writ petition succeeds and is allowed to the extent that the petitioner is entitled for interest @ 12% per annum on the amount of retiral benefits calculated by the respondents with effect from 1-3-1991 to 16-3-1994. The respondents are directed to pay interest on the retiral benefits for the aforesaid period to the petitioner within three months from the date of production of certified copy of this order. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs